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HOUSE BILL 779

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Ben Lujan

AN ACT

RELATING TO HEALTH CARE; CREATING THE HEALTH CARE PARTNERSHIP;
PROVIDING FOR DUTIES OF THE HEALTH CARE PARTNERSHIP; DIRECTING
AND AUTHORIZING THE DEVELOPMENT OF PARTNERSHIP BENEFIT PLANS;
PROVIDING FOR PARTICIPATING EMPLOYER PLANS AND PARTICIPATING
INSURANCE PLANS; PROVIDING FOR ELIGIBILITY AND BENEFITS;
PROVIDING FOR PROCEDURES TO ADDRESS ACCESS TO AND QUALITY AND
COST OF HEALTH CARE; ESTABLISHING AFFORDABILITY GUIDELINES;
MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the
"Health Care Partnership Act".

Section 2. PURPOSE.--The purpose of the Health Care
Partnership Act is to:

- A. create opportunities for all New Mexicans to

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1 obtain affordable health care coverage through a combination of
2 public and private options and financing;

3 B. determine and implement measures to control
4 escalating health care costs; and

5 C. improve access to and quality of health care for
6 all New Mexicans.

7 Section 3. DEFINITIONS.--As used in the Health Care
8 Partnership Act:

9 A. "affordability" means the designation of the
10 percentage or amount of income that a household should
11 reasonably be expected to devote to health care expenditures
12 while still having sufficient income to access other
13 necessities;

14 B. "health care services" means services rendered
15 by a licensed health care provider, including:

16 (1) the furnishing to any individual of
17 medical, behavioral health, dental, pharmaceutical or
18 optometric care;

19 (2) hospitalization or long-term care; and

20 (3) the furnishing to any person of services
21 to diagnose, prevent, alleviate, cure or heal human physical or
22 mental illness or injury; and

23 C. "health coverage" means a system of financing
24 health care services, including a hospital or medical
25 expense-incurred policy; a nonprofit health care plan service

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1 contract; a health maintenance organization subscriber
2 contract; a short-term, accident, fixed indemnity or specified
3 disease policy; a disability income contract; limited health
4 benefit insurance; credit health insurance; employer or group
5 self-insured arrangements; and public or other governmental
6 programs; provided, however that "health coverage" does not
7 include coverage issued pursuant to provisions of the Workers'
8 Compensation Act or similar law, automobile medical payment
9 insurance or provisions by which benefits are payable with or
10 without regard to fault and are required by law to be contained
11 in any liability insurance policy;

12 D. "living in New Mexico" means physically present
13 in New Mexico for at least six months with a current intention
14 to remain primarily in New Mexico and not to reside elsewhere
15 except for vacation or other brief visits; and

16 E. "partnership" means the health care partnership.

17 Section 4. HEALTH CARE PARTNERSHIP--CREATION.--

18 A. The "health care partnership" is created and
19 consists of such representatives from each of the following
20 agencies or committees as each may select and designate to
21 participate:

- 22 (1) the department of health;
- 23 (2) the human services department;
- 24 (3) the legislative finance committee;
- 25 (4) the New Mexico legislative council;

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1 (5) the interim legislative committee charged
2 with review or oversight of health care issues; and

3 (6) the insurance division of the public
4 regulation commission.

5 B. The partnership shall meet at least once each
6 calendar quarter until September 1, 2010. The partnership
7 shall continue to meet as needed to carry out the provisions of
8 the Health Care Partnership Act.

9 C. To the extent resources are available, the
10 partnership may request staff assistance from any state agency,
11 the legislative finance committee and the legislative council
12 service as appropriate to carry out the provisions of the
13 Health Care Partnership Act.

14 D. The partnership and any advisory groups that it
15 creates shall be dissolved and discontinue meeting effective
16 July 1, 2014.

17 Section 5. HEALTH CARE PARTNERSHIP--DUTIES.--The
18 partnership shall, pursuant to Section 7 of the Health Care
19 Partnership Act and after receiving input and recommendations
20 from the public and advisory councils, develop and present to
21 the governor and the legislature recommendations and proposed
22 action steps for legislative, regulatory, operational and
23 financial initiatives to increase access to and affordability
24 of health care for all people living in New Mexico. The
25 recommendations shall include:

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1 A. a sustainable methodology and time frame for the
2 financing of a health care system that incorporates strategies
3 from the public and private sectors;

4 B. strategies for health coverage or insurance
5 reform that increase affordability, availability and
6 portability of health coverage and consideration of guaranteed
7 issue and community rating;

8 C. structural reforms that would improve efficiency
9 in public health coverage programs, including the feasibility
10 of administrative consolidation of pools and joint purchasing
11 of necessary common administrative functions, durable medical
12 equipment, health care supplies and pharmaceuticals;

13 D. assessment of the impact of state or federal
14 laws and rules and any state or federal changes in the
15 structure of health coverage or policies;

16 E. statutory and regulatory initiatives necessary
17 to provide cost-effective health care services, including:

18 (1) access to information that would enable
19 licensed health care providers, consumers and purchasers to
20 evaluate cost data fairly, including contractual terms such as
21 reimbursement rates, provider charges and health benefit plans;
22 and

23 (2) a statewide uniform health care provider
24 credentialing process;

25 F. restructuring of the current health care

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1 delivery system, including:

2 (1) developing evidence-based approaches to
3 providing acute medical care, behavioral health care, chronic
4 medical care and disease management, preventive care and
5 wellness, public health and patient education;

6 (2) developing a system that realigns provider
7 and insurer incentives, reduces duplication, enhances primary
8 care and focuses on evidence-based long-term health
9 improvement; and

10 (3) providing for accountability by licensed
11 health care providers and health coverage plans for health
12 outcomes;

13 G. strategies to reduce gender, racial and ethnic
14 health care disparities and to identify underserved
15 populations, taking into account the role of Native American
16 health care systems and financing; and

17 H. other recommendations and action steps deemed
18 necessary by the partnership to carry out the provisions of the
19 Health Care Partnership Act.

20 Section 6. PUBLIC INPUT AND ADVISORY GROUPS.--

21 A. The meetings of the partnership shall be
22 announced publicly and in a timely manner and shall be open to
23 the public. The partnership shall provide opportunities for
24 public input in at least five different geographic areas of the
25 state before formulating its recommendations and action steps.

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1 A draft of the partnership's recommendations and action steps
2 shall be available to the public for at least thirty days
3 before being finalized for submission to the legislature and
4 the governor. At least one public meeting shall be held and
5 opportunity for written comment on draft recommendations and
6 action steps shall be provided by the partnership before the
7 recommendations and action steps are finalized for presentation
8 to the legislature and the governor.

9 B. The partnership may create advisory groups as
10 the partnership deems necessary to receive and consider advice
11 and reaction from consumers; advocates; licensed health care
12 providers; health insurers; payers, including employers and
13 federal and state agencies; Native American nations, tribes and
14 pueblos; and other interested parties. A person serving as a
15 member of an advisory group shall not be eligible for any
16 reimbursement for expenses associated with participation on
17 these advisory groups unless specific funding for this purpose
18 is identified by the partnership. Each advisory group shall be
19 given a specific charge and a specific date to end its work and
20 deliver its advice, whether in writing or through an oral
21 report to the partnership.

22 Section 7. RECOMMENDATIONS--SUBMISSION--ACTION.--

23 A. The partnership shall present its final
24 recommendations and proposed action steps to the legislative
25 finance committee, to the interim legislative committee charged

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1 with review or oversight of health care issues and to the
2 governor no later than September 1, 2010.

3 B. The legislative finance committee and the
4 interim legislative committee charged with review or oversight
5 of health care issues shall hold a joint public meeting on the
6 partnership's recommendations and shall each separately take
7 action to approve or reject each recommendation and action step
8 no later than December 1, 2010. Any recommendation not
9 specifically approved shall be deemed to be specifically
10 rejected; provided, however, that the committees may propose
11 modifications of the partnership's recommendations and action
12 steps.

13 C. The governor shall hold a public meeting and
14 prepare a written response to the partnership's recommendations
15 and proposed action steps, no later than December 1, 2010,
16 setting forth the governor's agreement or disagreement with
17 each of the recommendations and action steps, including any
18 proposed modifications to the partnership's recommendations and
19 actions steps.

20 Section 8. PARTNERSHIP BENEFIT PLANS--DEVELOPMENT.--

21 A. The partnership shall develop benefit plan
22 options for essential health care services, expanded health
23 care services and long-term care services, as well as options
24 for patient cost-sharing, health care provider selection
25 opportunities and variable annual limitations. The partnership

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1 benefit plans shall take into consideration requirements for
2 federal, state, tribal or local public health care services
3 plans or programs; the New Mexico Insurance Code; existing
4 benefit plans pursuant to the Group Benefits Act, the Retiree
5 Health Care Act, the Public School Insurance Authority Act, the
6 Medical Insurance Pool Act, the Health Insurance Alliance Act;
7 and programs administered by the human services department.

8 B. Essential health care services include:

- 9 (1) preventive health care services;
10 (2) health care provider services;
11 (3) health facility inpatient and outpatient
12 services;
13 (4) laboratory tests and radiology procedures;
14 (5) hospice care;
15 (6) prescription drugs;
16 (7) inpatient and outpatient mental health
17 services; and
18 (8) alcohol and substance abuse services.

19 C. Expanded health care services include:

- 20 (1) preventive and prophylactic dental
21 services, including an annual dental examination and cleaning;
22 (2) vision examinations and appliances,
23 including medically necessary contact lenses;
24 (3) medical supplies, durable medical
25 equipment and selected assistive devices, including hearing and

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1 speech assistive devices;

2 (4) transportation necessary to obtain
3 essential or expanded services;

4 (5) experimental or investigational procedures
5 or treatments not otherwise covered in essential health care
6 services; and

7 (6) other health care services as the
8 partnership may determine appropriate.

9 D. Long-term services include:

10 (1) in-home, community-based and institutional
11 long-term services for any diagnosable conditions for which
12 such services are necessary; and

13 (2) habilitation and rehabilitation services
14 for any diagnosable conditions for which such services are
15 necessary.

16 SECTION 9. PARTNERSHIP BENEFIT PLANS--COSTS AND
17 FINANCING.--

18 A. The partnership shall project approximate costs
19 to the state and to individuals and groups for partnership
20 benefit plans based on expected take-up and utilization of
21 services and on availability of federal, state, local and other
22 funds that may be used to pay for the plans, taking into
23 account variations in the amount, duration and scope of the
24 plans and affordability criteria proposed pursuant to Section
25 10 of the Health Care Partnership Act.

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1 B. The partnership shall recommend financing
2 options for subsidies to assist individuals or families to
3 purchase partnership benefit plans, based on affordability
4 guidelines. In recommending the financing options, the
5 partnership shall consider:

6 (1) available state and federal funding
7 options, including potential waivers available for certain
8 federal programs;

9 (2) current state law regarding assessments
10 and tax credits to contain costs through the Health Insurance
11 Alliance Act and the Medical Insurance Pool Act;

12 (3) the feasibility of requiring or
13 encouraging publicly funded health care agencies pursuant to
14 the Health Care Purchasing Act to use partnership benefit plans
15 as options for their eligible participants;

16 (4) an employer's contribution for all or part
17 of an employee's or a retiree's premium for a partnership
18 benefit plan, provided that a collective bargaining agreement
19 is not violated; and

20 (5) the impact on costs and financing if all
21 persons living in New Mexico were required to have health
22 coverage.

23 C. The partnership shall prepare a report with the
24 specific options and recommendations for financing by September
25 1, 2010.

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1 SECTION 10. AFFORDABILITY GUIDELINES.--

2 A. The partnership shall propose affordability
3 guidelines for individuals and families, including subsidies
4 that might be needed for various household sizes, income levels
5 and health needs for premiums for partnership benefit plans and
6 for patient cost-sharing and other out-of-pocket expenditures.
7 The partnership shall consider existing state and federal
8 requirements regarding allowed premiums and cost-sharing in
9 publicly financed programs. Changes in affordability
10 guidelines shall be proposed by the governor and set by the
11 legislature as part of the regular appropriation process,
12 provided that nothing in this section shall require the
13 governor to propose and the legislature to appropriate funds to
14 pay for subsidies identified by the affordability guidelines.

15 B. The partnership may recommend affordability
16 guidelines for employers, based on employer type, size and
17 annual revenue.

18 SECTION 11. PARTNERSHIP BENEFIT PLANS--OFFERED.

19 A. To the extent resources are available, the human
20 services department shall offer partnership benefit plans to
21 anyone living in New Mexico, based on underwriting criteria set
22 by the human services department in consultation with the
23 insurance division of the public regulation commission. The
24 plans shall be offered or administered through health insurers
25 that are licensed and in good standing pursuant to the New

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1 Mexico Insurance Code or through other options available to the
2 department.

3 B. To the extent practicable and within available
4 resources, persons licensed to sell, solicit or negotiate
5 insurance may be used to offer the partnership benefit plans to
6 individuals and groups.

7 C. Premiums for partnership benefit plans shall be
8 paid for by individuals, employers and other groups interested
9 in participating in the health partnership plans. To the
10 extent possible, federal and other available resources shall be
11 used to provide subsidies for persons covered through the
12 plans, according to the affordability guidelines set by the
13 partnership pursuant to Section 10 of this act. Based on
14 available resources and on compliance with state and federal
15 laws, the human services department may develop eligibility
16 guidelines for individuals or households that may receive
17 subsidies.

18 D. An employer, group or other plan that provides
19 health care benefits for its employees after retirement,
20 including coverage for payment of medicare supplementary
21 coverage, may agree to participate in the partnership benefit
22 plans. An employer that participates in a partnership benefit
23 plan shall contribute to the plan for the benefit of the
24 retiree, and the agreement shall ensure that the employer's,
25 group's or other plan's health benefit coverage for the retiree

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1 shall be restored in the event of the retiree's ineligibility
2 for partnership benefit plan coverage.

3 Section 12. PARTNERSHIP BENEFIT PLAN--COVERAGE OF
4 NONRESIDENT STUDENTS--An educational institution shall require
5 health coverage for its nonresident students and shall purchase
6 health coverage under one or more of the partnership benefit
7 plans for its nonresident students not otherwise covered,
8 through fees assessed to those students. The governing body of
9 an educational institution shall set the fees at the amount
10 determined by the human services department or at a lower
11 amount if the educational institution governing body pays the
12 additional cost required to pay the fees set by the human
13 services department.

14 Section 13. VOLUNTARY PURCHASE OF OTHER INSURANCE.--
15 Nothing in the Health Care Partnership Act shall be construed
16 to prohibit the voluntary purchase of insurance or health
17 coverage for health care services allowed to be purchased in
18 the state, for health care services not covered by partnership
19 benefit plans or for individuals not eligible for coverage
20 under partnership benefit plans.

21 Section 14. INSURANCE RATES--SUPERINTENDENT OF
22 INSURANCE--DUTIES.--

23 A. The superintendent of insurance shall work
24 closely with the partnership to identify premium costs that may
25 be necessary for partnership benefit plans and premium costs

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1 associated with health coverage in workers' compensation and
2 automobile medical coverage. The superintendent of insurance
3 shall develop an estimate of expected reduction in those costs
4 based upon assumptions of health care services or health
5 coverage pursuant to the Health Care Partnership Act.

6 B. The superintendent of insurance shall ensure or
7 recommend to the appropriate authorities that workers'
8 compensation and automobile insurance premiums on insurance
9 policies written in the state reflect a lower rate to account
10 for medical payments assumed by the partnership benefit plans.

11 Section 15. QUALITY OF CARE--HEALTH CARE PROVIDER AND
12 HEALTH FACILITIES--PRACTICE STANDARDS.--

13 A. Based on the recommendations of the partnership
14 and subject to available resources, the department of health
15 shall review and adopt quality improvement standards for health
16 care services provided in the state. These standards shall
17 consider evidence-based medicine, best practices, outcome
18 measurements, consumer education and patient safety.

19 B. By July 1, 2011, the department of health shall
20 propose a health care quality improvement program, based on the
21 recommendations of the partnership, to the governor and the
22 legislature with requirements for funding and time lines for
23 implementation based on available resources. The quality
24 improvement program shall include an ongoing system for
25 monitoring patterns of practice.

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1 C. The department of health, in consultation with
2 health care provider practice and licensure boards, shall
3 review and adopt professional practice guidelines developed by
4 state and national medical and specialty organizations, federal
5 agencies for health care policy and research and other
6 organizations as it deems necessary to promote the quality and
7 cost-effectiveness of health care services provided in the
8 state.

9 D. In consultation with health care provider
10 practice and licensure boards, the department of health shall
11 establish a system of peer education for health care providers
12 or health facilities determined to be engaging in patterns of
13 practice that do not meet the standards pursuant to Subsection
14 A of this section. The department may refer health care
15 providers continuing to engage in practices that do not meet
16 those standards to the appropriate licensing or certifying
17 board.

18 Section 16. ACCESS TO HEALTH CARE.--

19 A. By July 1, 2011, the department of health, in
20 consultation with health care provider certification and
21 licensing boards, shall propose to the governor and the
22 legislature a program and time line for increasing the numbers
23 and capacity of the health care provider work force in the
24 state, pursuant to the recommendations of the partnership. The
25 program shall include:

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1 (1) standards for access to various types of
2 primary, specialty and emergency health care within identified
3 time frames and distances;

4 (2) standards for the reasonable availability
5 of primary and specialty health care providers in the various
6 regions of the state that are used for planning by the
7 interagency behavioral health purchasing collaborative; and

8 (3) methods and costs for achieving these
9 standards.

10 B. In developing these standards and programs, the
11 department shall consider the role of the Indian health service
12 and the role of traditional practices of healing among Native
13 American nations, tribes and pueblos in the state.

14 Section 17. APPROPRIATION.--Five hundred thousand dollars
15 (\$500,000) is appropriated from the general fund to the
16 legislative council service for expenditure in fiscal years
17 2010 and 2011 to support the activities of the partnership and
18 accomplish the purposes of this act. Any unexpended or
19 unencumbered balance remaining at the end of fiscal year 2011
20 shall revert to the general fund.